

ADAM WANG, Bar No. 210233  
LAW OFFICES OF ADAM WANG  
12 South First Street, Suite 613  
San Jose, CA 95113  
Tel: (408) 292-1040  
Fax: (408) 286-6619  
[waqw@sbcglobal.net](mailto:waqw@sbcglobal.net)

TOMAS E. MARGAIN, Bar No. 193555  
LAW OFFICES OF TOMAS E. MARGAIN  
1550 Bryant Street, Suite 725  
San Francisco, CA 94103  
Telephone: 415-861-9600  
Fax: 415-861-9622  
[margainlaw@hotmail.com](mailto:margainlaw@hotmail.com)

Attorney for Plaintiffs  
Vladimir Balarezo, Abelardo Guerrero,  
Victor Funez & Osmin Avila

UNITED STATES DISTRICT COURT  
FOR DISTRICT OF NORTHERN CALIFORNIA

VLADIMIR BALAREZO, ABELARDO  
GUERRERO, VICTOR FUNEZ & OSMIN  
AVILA, and on behalf of other similarly  
situated

Plaintiffs,

vs.

NTH CONNECT TELECOM INC., AND  
STEVEN CHEN,

Defendants

Case No.:C07-05243 JF

**SUPPLEMENTAL DECLARATION OF  
TOMAS E. MARGAIN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR APPROVAL OF  
HOFFMANN-LA ROCHE NOTICE**

Date: May 2, 2008  
Time: 9:00 am  
Judge: Honorable Jeremy Fogel

I, the undersigned, declare as follows:

1. I am an attorney duly authorized to practice before this Court and Plaintiffs' attorney of record in this action. I base this declaration on my personal knowledge unless otherwise indicated.

2. By this motion, Plaintiffs seek an Order to send notice to an "opt-in" class to pursue overtime claims based on the "regular rate" they earned pursuant to 29 C.F.R. § 778.11. Based on the pay records submitted by Defendants, Nth Connect Telecom Inc. and Steven Chen

1 paid overtime hours using California minimum wage as the regular rate which results in an  
2 underpayment of overtime wages.

3 3. With respect to the Objection made to my Declaration, I am not claiming to be an  
4 expert witness on payroll issues and am not making an opinion as to any issue in dispute. I  
5 merely applied the plain language of 29 C.F.R. § 778.11 which defines how to calculate the  
6 “regular rate” when a piece rate system is in operation. I did this by totaling the piece rate  
7 earning of Plaintiff Balarezo, dividing by the total number of hours worked to calculate the  
8 “regular rate.” Pursuant to 29 C.F.R. § 778.11 I then calculated the overtime rate as one-half the  
9 regular rate for overtime hours.

10 4. With respect to Defendants evidence objections, I relied on the time and pay  
11 records of Plaintiff Balarezo as contained in the Declaration of Linda Francis, Defendants’  
12 human resources manager, which supported Defendants’ 12(b)(6) Motion (Dock #6). This  
13 Declaration attached and authenticated Plaintiff Balarezo’s Pay Stubs at Exhibit A and Time  
14 Records at Exhibit B thereto. For the Court’s convenience, I am attaching a true and correct  
15 copy of those time records as Exhibit 1 hereto and a true and correct copy of those pay records as  
16 Exhibit 2.

17 5. Exhibits 1 and 2 show that overtime was consistently worked by Plaintiff  
18 Balarezo. In fact, I added up all the overtime hours worked by Plaintiff Balarezo and Exhibits 1  
19 and 2 show he was paid for 632.45 overtime hours at California Minimum Wage and not based  
20 on the regular rate.

21 I declare under penalties of perjury under the laws of the United States that the foregoing  
22 is true and accurate.

23 Dated: April 16, 2008

By: /s/ Tomas Margain  
Tomas E. Margain